



***Cost-Benefit and Regulatory Flexibility Analyses:  
Proposed Regulations on the Curation of Federally-Owned and  
Administered Archeological Collections***

Bruce Peacock, Ph.D.

Environmental Quality Division

1201 Oakridge Drive  
Fort Collins, Colorado 80525

May 27, 2009

*This page intentionally blank*

## **Introduction**

This report presents the cost-benefit and regulatory flexibility analyses of a proposed regulatory action establishing definitions, standards, ~~and procedures, and guidelines~~ [TC1] for the curation of Federally-owned and administered archeological collections. Quantitative analyses were not conducted due to a lack of available data, and because the additional cost of conducting quantitative analyses was not considered to be reasonably related to the expected increase in the quantity and/or quality of relevant information. Nevertheless, the National Park Service (NPS) believes that these analyses provide an adequate assessment of all relevant costs and benefits associated with the regulatory action.

The results of the cost-benefit analysis indicate that the costs of the proposed regulatory action are justified by the associated benefits. Additionally, this proposed regulatory action will not have an annual economic effect of \$100 million, and will not adversely affect an economic sector, productivity, jobs, the environment, or other units of government. This proposed regulatory action will improve governmental functions.

The results of the regulatory flexibility analysis indicate no adverse impacts for any sector of the economy or unit of government, including small entities. Given those findings, the proposed regulatory action will not impose a significant economic impact on a substantial number of small entities.

## **Cost-Benefit Analysis**

### ***Statement of Need for the Proposed Plan***

Executive Order 12866 (58 FR 51735) directs Federal agencies to demonstrate the need for the regulations they promulgate. In general, regulations should be promulgated only when a “market failure” exists that cannot be resolved effectively through other means. A market failure exists when private markets fail to allocate resources in an economically efficient manner. Other justifications for promulgating regulations include improving governmental functions, removing distributional inequities, and promoting privacy and personal freedom (OMB 2003).

The purpose of this proposed regulatory action is to establish definitions, standards, ~~and procedures, and guidelines~~ [TC2] for the curation of Federally-owned and administered archeological collections. These definitions, standards, ~~and procedures, and guidelines~~ are intended to allow Federal agencies to dispose of ~~certain particular~~ archeological material ~~remains~~ that have been determined to be of insufficient archaeological interest. This proposed regulatory action is needed to improve governmental functions since currently there are no definitions, standards, ~~or procedures, or guidelines~~ that allow Federal agencies to dispose of such archeological material ~~remains~~. Additionally, this proposed regulatory action will further improve governmental functions by promoting a more efficient ~~and effective~~ curation of archeological material ~~remains~~ that are of archeological interest.

### ***Baseline Conditions***

The costs and benefits of a regulatory action are measured with respect to its baseline conditions. Baseline conditions describe the state of the world that would exist without the regulatory action. Therefore, all costs and benefits that are included in this analysis are incremental to the baseline conditions. That is, any future impacts that would occur without the proposed action, as well as any past impacts that have already occurred, are not included in this analysis.

For this proposed regulatory action, the baseline conditions are described by a lack of established definitions, standards, and procedures; ~~or guidelines~~ that allow Federal agencies to dispose of archeological material remains that have been determined to be of insufficient archaeological interest.

### ***Costs and Benefits***

The proposed regulatory action simply involves establishing definitions, standards, and procedures; ~~and guidelines~~ for Federal agencies to dispose of certain archeological material remains that have been determined to be of insufficient archaeological interest. This action is voluntary and does not ~~involve-impose~~ any additional fees, restrictions, or other management measures that would increase costs to visitors, businesses, or communities<sup>[TC3][GD4]</sup>. -Therefore, this action will not impose any costs on the public.

However, this action will generate positive benefits in the form of improved Federal governmental functions by providing ~~procedural~~ guidance for necessary governmental actions where none had existed before. Not only will the proposed regulatory action improve how Federal agencies may manage certain archeological material remains that have been determined to be of insufficient archaeological interest, but it will also improve the management of archaeological material remains that are of interest by freeing agency resources for their curation. These benefits were not quantified since the additional cost of conducting quantitative analyses was not considered to be reasonably related to the expected increase in the quantity and/or quality of relevant information.

Since this action will generate positive benefits and no anticipated costs, NPS concludes that positive net benefits will be generated. These benefits can be expected to continue through time as long as the proposed regulations remain in place.

### ***Uncertainty***

The benefits associated with the improved management of archaeological material remains were not quantified. Nevertheless, positive benefits would be generated through the improvement of governmental curation functions. Therefore, any uncertainty involved in this analysis is associated only with how often agencies might choose to use

this rule and the magnitude of ~~these~~ associated benefits. NPS is not aware of any other sources of uncertainty [TC5].

### ***Conclusions***

The results of this cost-benefit analysis indicate that positive net benefits will be generated by the proposed regulatory action. Given that, NPS concludes that the proposed regulatory action will generate the positive benefits associated with the proposed regulatory action justify the associated and no anticipated costs [TC6]. Further, this proposed regulatory action is not expected to have an annual economic effect of \$100 million, or to adversely affect an economic sector, productivity, jobs, the environment, or other units of government. This proposed regulatory action will improve governmental functions.

### **Regulatory Flexibility Analysis**

The Regulatory Flexibility Act, as amended, requires agencies to analyze impacts of regulatory actions on small entities (businesses, nonprofit organizations, and governments), and to consider alternatives that minimize such impacts while achieving regulatory objectives (SBA 2003). Agencies must first conduct a threshold analysis to determine whether regulatory actions are expected to have a significant economic impact on a substantial number of small entities. If the threshold analysis indicates a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis must be produced and made available for public review and comment along with the proposed regulatory action. A final regulatory flexibility analysis that considers public comments must then be produced and made publicly available with the final regulatory action. Agencies must publish a certification of no significant impact on a substantial number of small entities if the threshold analysis does not indicate such impacts.

This threshold analysis relies on the associated cost-benefit analysis, which concludes that this proposed regulatory action will generate positive benefits and no costs. In addition to that conclusion, this action will not impose restrictions on small businesses, governments, or non-profit organizations in the form of fees, training, record keeping, or other measures that would increase costs. Rather, this action will improve Federal governmental functions by facilitating the management of archeological material remains. Given those findings, this proposed regulatory action will not impose a significant economic impact on a substantial number of small entities.

### **References**

Office of Management and Budget (OMB). Circular A-4: guidance for developing regulatory analyses. September 17, 2003.

May 27, 2009

Small Business Administration (SBA). "A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act." May 2003.